

**立法會**  
*Legislative Council*

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**Bills Committee on Fire Services (Amendment) Bill 2016**

**Background brief prepared by the Legislative Council Secretariat**

**Purpose**

This paper sets out background information on the Administration's proposal to amend the Fire Services Ordinance (Cap. 95) ("FSO") to provide for the statutory framework for registered fire engineers ("RFEs") and a scheme for fire safety risk assessment and certification on compliance with fire safety requirements by RFEs for certain premises, and summarizes discussions of the Panel on Security ("the Panel") on the latest legislative proposal.

**Background**

2. At present, a person who intends to run certain types of premises has to obtain a certificate or letter issued by the Director of Fire Services ("DFS"), certifying that the premises concerned have complied with all relevant fire safety requirements and will not expose persons therein to any undue risk of fire, before the applicant can be issued a licence, a permit, a certificate of compliance or a certificate of registration by the regulatory authorities concerned.<sup>1</sup> DFS is currently the only party vested with the statutory authority to issue fire safety certification for buildings or premises. FSO and its subsidiary legislation do not provide for persons other than DFS to perform fire safety risk assessment and certification required for the licensing process.

3. Before issuing the certificate or letter, the Fire Services Department ("FSD") officers will inspect the premises to assess the fire risk. According to

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<sup>1</sup> Those premises requiring a licence or permit to operate include general restaurants, factory canteens, funeral parlours, cinemas, theatres, karaoke establishments, hotels, guesthouses, places of public entertainment, etc. A club-house requires a certificate of compliance to operate, whereas schools needs a certificate of registration.

the fire risk assessment result, FSD officers will issue a set of fire safety requirements to the licence applicant, stipulating the fire safety works required (e.g. provision of fire service installations and equipment and ventilating systems). The licence applicant will then engage a registered fire service installation contractor, other contractors or workers to carry out the required works. Upon notification by the licence applicant that the required fire safety works have been completed, FSD officers will conduct compliance inspection. If the requirements have been complied with, FSD will issue a certificate or letter to the licence applicant, with which the licence applicant can submit to the relevant regulatory authority for obtaining the relevant licence.

4. The Efficiency Unit conducted a Departmental Business Study for FSD in 2004 with a view to enhancing FSD's business-friendliness. The Efficiency Unit recommended FSD to reduce its involvement in day-to-day inspection and certification by devolving the responsibility of fire safety certification to the industry. FSD conducted two rounds of trade consultations in 2007 and 2011 respectively to gauge the views from the stakeholders on the proposal to implement a scheme so that qualified persons in the private market might also provide the fire safety risk assessment and certification services. To better assess the business impact of the proposed scheme on various stakeholders, a Business Impact Assessment study was conducted from mid-2012 to mid-2013. According to the Administration, the majority of stakeholders expressed support for the introduction of the proposed scheme.

### **The Fire Services (Amendment) Bill 2015**

5. The Administration introduced the Fire Services (Amendment) Bill 2015 ("the 2015 Bill") into the Legislative Council ("LegCo") on 16 December 2015 and a Bills Committee was formed to scrutinize the Bill. The Bill seeks to expand the scope of the Ordinance to provide for registered RFEs and a scheme for fire safety risk assessment and certification on compliance with fire safety requirements by RFEs for certain premises; empower the Chief Executive ("CE") in Council to make regulations for the RFE Scheme and for regulating RFEs; and make related, consequential and other minor amendments.

6. The Bills Committee on Fire Services (Amendment) Bill 2015 completed scrutiny of the Bill in June 2016 and raised no objection to the resumption of the Second Reading debate on the Bill at the Council meeting of 29 June 2016. However, owing to other pressing business LegCo had to transact, the 2015 Bill did not resume Second Reading debate and lapsed upon the prorogation of the Fifth LegCo on 16 July 2016.

## **The Fire Services (Amendment) Bill 2016**

7. The Administration introduced The Fire Services (Amendment) Bill 2016 ("the 2016 Bill") into LegCo on 30 November 2016. According to the LegCo Brief (File Ref.: SBCR 1/2361/14) issued by the Security Bureau on 16 November 2016, the 2016 Bill is by and large a replica of the 2015 Bill but has incorporated the then agreed Committee stage amendments ("CSAs") that regulations made by the CE in Council for the RFE Scheme and for regulating the RFEs, except those concerning fees to be charged in relation to the registration and de-registration of RFEs, are to be subject to the positive vetting procedure.

### **Deliberations of the Panel on the latest legislative proposal**

8. The Panel was consulted on the legislative proposal on 11 November 2016. The deliberations are summarized in the following paragraphs.

#### Views on the legislative proposal and role of FSD

9. Some members enquired about the difference between the contents of the 2015 Bill and the 2016 Bill. Members were advised that in comparison with the 2015 Bill, the main difference was that the regulations to be made by CE in Council for the RFE Scheme and for regulating RFEs, which were subject to the negative vetting procedure under the 2015 Bill, would be subject to the positive vetting procedure under the 2016 Bill. Such revision had incorporated the agreed CSAs to the 2015 Bill.

10. Some members expressed concern that although the RFE Scheme was generally supported by stakeholders, the 2015 Bill could not resume Second Reading debate and lapsed upon prorogation of the Fifth LegCo because of some Members' strong opposition to the Medical Registration (Amendment) Bill 2016 which had lapsed upon the prorogation of the Fifth LegCo. Concern was raised as to whether the Administration would adopt measures to make up for the delay in the introduction of the RFE Scheme. Members were advised that the Administration would, in parallel with the introduction of the 2016 Bill into LegCo, commence its consultation with stakeholders on the details of the RFE Scheme and start preparing the proposed regulations. This would enable the regulations to be introduced into LegCo as soon as possible after passage of the 2016 Bill.

11. Some other members were of the view that the Administration should not shift the responsibility of monitoring fire safety to the private sector by establishing the RFE Scheme. These members were concerned whether the

quality of fire safety risk assessment and certification would be lowered with the participation of the private sector in the RFE Scheme. Some of these members considered that the Administration should instead allocate more resources for FSD to create more supernumerary posts to carry out fire safety risk assessment and certification work.

12. Some members expressed support for the legislative proposal, which would provide an additional option for fire safety risk assessment and certification. They enquired whether measures would be introduced to ensure the risk assessment and certification services of RFEs meeting required standards.

13. According to the Administration, after the RFE Scheme was launched, only persons with relevant qualifications and experience who registered as RFEs could perform the fire safety risk assessment and certification work in addition to FSD staff. FSD would play a regulatory role over the Scheme. FSD intended to require that fire safety requirements formulated by a registered fire engineer (risk assessment) must be endorsed by FSD before they were issued to the licence applicants. FSD would also carry out audit inspections on at least 70% of the certification completed by RFEs.

14. Some members were concerned about the number of FSD staff currently performing fire safety risk assessment and certification work and the future role of these FSD staff after implementation of the RFE Scheme. According to the Administration, there were currently around 130 FSD staff performing fire safety risk assessment and certification work for licensed premises. In the longer term, the implementation of the RFE Scheme might enable some of these staff to be redeployed for other work.

### Registration of RFEs

15. Some members raised concern about the estimated number of persons eligible for registration as RFEs and whether quantifiable standards would be established for RFE registration. Members were advised that according to a previous study, around 150 and 1 500 professionals could meet the qualification requirements for a registered fire engineer (risk assessment) and a registered fire engineer (fire service installation)/registered fire engineer (ventilating systems) respectively. Members were further advised that a registration committee would be established to oversee the registration of RFEs. The Administration would consult relevant stakeholders on the qualification requirements of RFEs.

**Relevant papers**

16. A list of the relevant papers on the LegCo website is in the **Appendix**.

Council Business Division 2  
Legislative Council Secretariat  
19 December 2016

**Relevant papers on  
the Fire Services (Amendment) Bill 2016**

<b>Committee</b>	<b>Date of meeting</b>	<b>Paper</b>
Panel on Security	3.11.2015 (Item IV)	<a href="#">Agenda</a> <a href="#">Minutes</a>
Bills Committee on Fire Services (Amendment) Bill 2015	--	<a href="#">Report of the Bills Committee to the Legislative Council</a>
Panel on Security	11.11.2016 (Item IV)	<a href="#">Agenda</a> <a href="#">Minutes</a>

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